

FILED
2018 JUN 25 P 12:31

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

LISA HORN-BRICHETTO,)
Plaintiff,)
v.) Case No. 3:17-CV-163
TIFFANY SMITH,) Greer / Poplin
RUSSELL JOHNSON, and)
BECKY RUPPE,)
Defendants.)

**MOTION TO COMPEL PRODUCTION
OF DOCUMENTS IN COMPLIANCE WITH NON-PARTY SUBPOENA**

I. INTRODUCTION

Pursuant to Rule 45, Federal Rules of Civil Procedure, Plaintiff, *pro se*, respectfully moves the Court for an order compelling the production of documents subpoenaed from the Knox County Sheriff, Jimmy “J.J.” Jones (‘the Sheriff”), and to award Plaintiff her reasonable costs associated with having prepared and filed this Motion.

II. FACTS

1. On April 19, 2018, the Plaintiff issued a subpoena for documents on the Sheriff, a non-party (the “Subpoena”).
2. By the Subpoena, Plaintiff sought the production of All Documents, Emails, Memorandum and Travel Logs (Complete Case File) for Knox County Sheriff’s Department Case 089181625. A copy of the Subpoena is attached as Exhibit A.

3. The Subpoena is part of Plaintiff's efforts to obtain documents related to the Defendants conspiracy to retaliate for political losses.
4. After service, the Sheriff did not object to the Subpoena nor did he file a motion for a protective order. Its deadline to comply was May 19, 2018.
5. Accordingly, Plaintiff files this Motion and respectfully requests this Court to compel the Sheriff to produce the subpoenaed documents and to pay reasonable fees and costs to Plaintiff

III. LAW AND ARGUMENT

Rule 45 governs discovery of non-parties by subpoena. Rule 45(c)(2)(B) provides in relevant part:

A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises-or to producing electronically stored information in the form or forms requested.

That rule further provides that "the serving party may move the issuing court for an order compelling production or inspection." Fed.R.Civ.P. 45(c)(2)(B)(I). Here, there are no contested issues regarding the Subpoena. Plaintiff issued a valid subpoena seeking relevant information concerning Knox County Sheriff Department case records. Accordingly, the Court should compel the Sheriff to comply with the Subpoena and produce responsive documents immediately.¹

The Court should also award the reasonable fees and costs to Plaintiff for having to prepare and file this Motion, which could have been avoided. Here, The Sheriff's response was

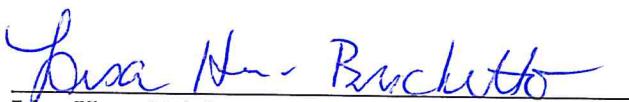
¹ Even if The Sheriff were to contest the Subpoena, he had 14 days from service to raise any objections. Fed.R.Civ.P. 45(c)(2)(B). Failure to timely raise objections results in waiver. *Madeline LLC v. Street*, 2009 WL 1563526, *1 (S.D. Fla. June 3, 2009) {citing 9A Wright & Miller, *supra* § 2463 (noting that "failure to object within the fourteen-day period usually results in waiver of the contested issue") (footnote omitted)}.

due in 30 days, but the Sheriff simply ignored it. The Sheriff will not comply with the Subpoena absent a Court order. Rule 45(e) provides that the issuing court "may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena." Given The Sheriff's disregard for the Subpoena, Plaintiff's fees and costs for bringing this Motion is an appropriate sanction. Indeed, a subpoena issued on behalf of the court should be treated as a court order.

IV. CONCLUSION

WHEREFORE, Plaintiff respectfully requests the entry of an order compelling non-party Sheriff to comply with the Subpoena, awarding Plaintiff the reasonable costs and fees in bringing this Motion, and any other relief as the Court deems just and necessary. If the Court is inclined to award fees and costs, Plaintiff respectfully requests that she be allowed 10 days to submit the necessary documents supporting the fees and costs incurred.

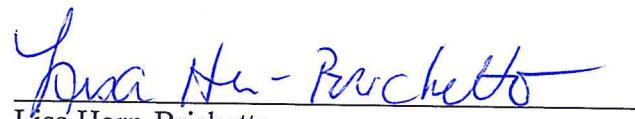
Respectfully submitted,


Lisa Horn-Brichetto
Lisa Horn-Brichetto
Plaintiff, *pro se*
4815 Kingston Pike
Knoxville, TN 37919
(865) 936-2399
lisabrichetto@yahoo.com

CERTIFICATE OF SERVICE

Plaintiff hereby certifies that a copy of the foregoing was mailed via first-class mail, postage prepaid, to:

Mary Elizabeth McCullohs
Office of the Attorney General
P. O. Box 20207
Nashville, TN 37202-0207


Lisa Horn-Brichetto
Plaintiff, *pro se*

UNITED STATES DISTRICT COURT
for the
Eastern District of Tennessee

Lisa Horn-Brichetto _____)
Plaintiff _____)
v. _____) Civil Action No. 3:17-CV-163
Tiffany Smith et al _____)
Defendant _____)

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: JIMMY J.J. JONES, KNOX COUNTY TENNESSEE SHERIFF

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

ALL DOCUMENTS, EMAILS, MEMORANDUM and TRAVEL LOGS (COMPLETE CASE FILE) for CASE No. 089181625

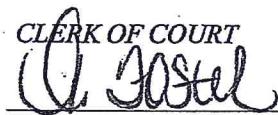
Place: Lisa Horn-Brichetto at the address below	Date and Time: 05/04/2018 10:00 am
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Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 4/19/18

CLERK OF COURT


Signature of Clerk or Deputy Clerk

OR

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Lisa Horn-Brichetto pro se 4815 Kingston Pike, Knoxville, TN 37919 _____, who issues or requests this subpoena, are:
lisabrichetto@yahoo.com

Notice to the person who issues or requests this subpoena
If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).